IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

WP(C).No. 21311 of 2007(K)

PETITIONER:

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1. M/S SPELL BOUND GARMENTS(INDIA)(P)LTD., MAYA MANDIR, CHERUPARMABATH ROAD, KADAVNTHARA, KOCHI-20 REP. BY MANAGING DIRECTOR,K.V.VIJAYAKUMAR AGED 50 YEARS, S/O K.NARAYANA PANICKER, RESIDING AT MAYA MANDIR, CHERUPARMABATH ROAD, KADAVANTHARA, KOCHI-682020.

2. MR.GOVINDANKUTTY KAIMAL, AGED 68 YEARS, NEPHEW OF SRI.KUTTAPA KAIMAL, DIRECTOR, M/S SPELL BOUND GARMENTS(INDIA)(P)LTD.,MAYA MANDIR, CHERUPARMABATH ROAD, KADAVNTHARA, KOCHI-20 AND RESIDING AT MAYA MANDIR, CHERUPARMABATH ROAD, KADAVANTHARA, KOCHI-682020.

BY ADV. SRI.ANIL S.RAJ
SMT.K.N.RAJANI
SMT.MANJUSHA MOHANDAS
SMT.ANILA PETER

RESPONDENTS:

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1. THE KERALA FINANCIAL CORPORATION, VELLAYAMBALAM, THIRUVANANTHAPURAM, REPRESENTED BY ITS MANAGING DIRECTOR.

2. THE KERALA FINANCIAL CORPORATION, DISTRICT OFFICE, ERNAKULAM, REPRESENTED BY ITS CHIEF MANAGER, COCHIN-682017.

3. THE DEPUTY TAHSILDAR,(R.R), KERALA FINANCIAL CORPORATION, ERNAKULAM, COCHIN-682017.

BY ADV. SRI.M.M.SAYED MUHAMMED, SC, KFC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1- TRUE COPY OF NOTICE NO.03/05/RR/KFC/330 ISSUED BY THE THIRD RESPONDENT AND ADDRESSED TO THE DIRECTORS OF THE FIRST PETITIONER COMPANY DTED NIL

EXT.P2- TRUE COPY OF THE LETTER ISSUED BY THE MANAGING DIRECTOR OF THE petitioner COMPANY TO THE SECOND RESPONDENT DATED 2.7.2007

EXT.P3- TRUE COPY OF LETTER BEARING NO.030277710, 20, 30, 31 & 90/1363/07 ISSUED BY THE SECOND RESPONDENT TO THE MANAGING DIRECTOR OF THE PETITIONER COMPANY DATED 3.7.2007

(TRUE COPY)

P.A TO JUDGE

ANTONY DOMINIC, J

W.P.(C).21311/2007

Dated this the 22nd day of November, 2007

JUDGMENT

Although it is the admitted position that the liability of the petitioner to the first respondent has been settled by availing of the benefit of an OTS scheme, the dispute tht survives is to the extent of the claim made for collection charges. It is also the admitted position that though notice was issued for recovery of the amount, amount was paid directly. Thus the payment was made and was not recovered by taking recourse to the revenue recovery proceedings. If that be so, their arise no question of collection charges so far as the petitioner is concerned. Therefore, I see no justification for demanding collection charges. In view of this there is no necessity to retain the security that was furnished by the petitioner for return of the documents pursuant to the order dated 3.8.2007.

2. Therefore, I dispose of this writ petition directing the respondents to release the security that was furnished

by the petitioner as expeditiously as possible at any rate within a period of four weeks on receipt of a copy of this judgment.

ANTONY DOMINIC
Judge

mrcs